

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Mark Acton, Vice Chairman;
Nanci E. Langley; and
Robert G. Taub

Market Dominant Product Prices
Inbound Market Dominant Multi-Service Agreements
with Foreign Postal Operators 1
Singapore Post Limited – United States Postal Service
Bilateral Agreement (MC2010-35)
Negotiated Service Agreement

Docket No. R2012-1

ORDER APPROVING RATE ADJUSTMENT FOR SINGAPORE POST–UNITED
STATES POSTAL SERVICE LETTER POST BILATERAL AGREEMENT
NEGOTIATED SERVICE AGREEMENT

(Issued November 23, 2011)

I. INTRODUCTION

The Postal Service requests approval of a Type 2 rate adjustment for the inbound portion of the Singapore Post Limited–United States Postal Service Bilateral Agreement. For the reasons discussed below, the Commission approves the request.

II. BACKGROUND

On October 14, 2011, the Postal Service filed a notice, pursuant to 39 CFR 3010.40 *et seq.*, and Order No. 549, that it has entered into a bilateral agreement with Singapore Post Limited (Singapore Post), which it seeks to include in the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product.¹

In Order No. 549, the Commission approved the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product and the Strategic Bilateral Agreement Between the United States Postal Service and Koninklijke TNT Post BV and TNT Post PakketSERVICE Benelux BV (TNT Agreement) and the China Post Group–United States Postal Service Letter Post Bilateral Agreement (CPG Agreement). In Order No. 700, the Commission approved the functionally equivalent HongKong Post Agreement.² In Order 871, the Commission approved the functionally equivalent China Post 2011 Agreement.³ The Postal Service asserts that the Singapore Post Agreement is similar to the CPG Agreement, the HongKong Post Agreement and the China Post 2011 Agreement.

The Postal Service filed supporting materials, including a redacted copy of the Singapore Post Agreement, supporting financial documentation, and an application for non-public treatment of materials filed under seal.

The Singapore Post Agreement establishes a small packet with delivery confirmation product for inbound Letter Post with dimensions greater than those of a flat and weighing less than 2 kilograms. Notice, Attachment 2 at 9. The inbound rates

¹ Notice of United States Postal Service of Type 2 Rate Adjustment, and Notice of Filing Functionally Equivalent Agreement, October 14, 2011 (Notice); see also Docket Nos. MC2010-35, R2010-5 and R2010-6, Order Adding Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 to the Market Dominant Product List and Approving Included Agreements, September 30, 2010 (Order No. 549).

² See Docket No. R2011-4, Order Approving Rate Adjustment for HongKong Post–United States Postal Service Letter Post Bilateral Agreement Negotiated Service Agreement, March 18, 2011 (Order No. 700).

³ See Docket No. R2011-7, Order Concerning an Additional Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 Negotiated Service Agreement, September 23, 2011 (Order 871).

under the Agreement are scheduled to become effective December 1, 2011. *Id.* at 3. The Postal Service states that the proposed rates result in an improvement over default rates established under the Universal Postal Union (UPU). *Id.* at 1. The Agreement provides that it becomes effective after all regulatory approvals have been received, notification to Singapore Post, and mutual agreement on an effective date. *Id.* Attachment 2 at 1. The Agreement, however, may be terminated by either party with no less than 30 days' written notice. *Id.* at 2.

The Postal Service states that the Singapore Post Agreement is expected to generate financial performance improvements, will not cause unreasonable harm in the marketplace, and is functionally equivalent to the previously filed CPG Agreement, HongKong Post Agreement and China Post 2011 Agreement.⁴ *Id.* at 4-11.

The Postal Service contends that the Singapore Post Agreement should be added as a functionally equivalent agreement under the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product. *Id.* at 12.

In Order No. 909, the Commission gave notice of the docket, appointed a Public Representative, and provided the public with an opportunity to comment.⁵

III. COMMENTS

Comments were filed by the Public Representative.⁶ No other interested person submitted comments. The Public Representative reviewed the Singapore Post Agreement's functional equivalence with the China Post 2011 Agreement in Docket No. R2011-7 and compliance with 39 U.S.C. 3622(c)(10). He maintains that the various differences, including the term, single service and absence of a separate accord on

⁴ The Postal Service asserts that the Agreement is similar to all three agreements but it uses the terms of the China Post 2011 Agreement for comparison of specific terms.

⁵ Notice and Order Concerning Rate Adjustment for Bilateral Agreement with Singapore Post 2011 and Functionally Equivalent Negotiated Service Agreement, October 18, 2011 (Order No. 909).

⁶ Public Representative Comments on Postal Service Notice Concerning Rate Adjustment for Bilateral Agreement with Singapore Post and Functionally Equivalent Negotiated Service Agreement, October 24, 2011 (PR Comments).

business accounting rules and other changes, do not alter the similarity or cost characteristics of the two agreements. *Id.* at 3. He concludes that the Singapore Post Agreement is functionally equivalent to the China Post 2011 Agreement. *Id.*

The Public Representative states that the negotiated rates for inbound small packets with delivery confirmation in the instant agreement represent an improvement over the default UPU terminal dues rates. *Id.* at 4. He states that his review of the supporting documentation indicates that, based on projected volumes, the instant agreement will generate unit revenue in excess of estimated unit attributable costs, which should result in a positive cost coverage. *Id.* at 4. The Public Representative also affirms that the Singapore Post Agreement should support improvement in the Postal Service's operational performance during the contract period. *Id.*

Finally, the Public Representative maintains that the Postal Service has adequately supported its position that the Singapore Post Agreement will not cause unreasonable harm to the marketplace and will be made available on public and reasonable terms to similarly situated mailers. *Id.*

IV. COMMISSION ANALYSIS

In Order No. 549, the Commission established the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product and two functionally equivalent agreements. In its analysis of the market dominant product in that proceeding, the Commission reviewed the statutory requirements for inclusion of negotiated service agreements under this product. As the Postal Service seeks to add a comparable agreement to the CPG Agreement approved in Docket No. R2010-6, there is no need to determine whether the instant Agreement should be classified as market dominant.

Statutory responsibilities. The statutory and regulatory provisions of 39 U.S.C. 3622(c)(10) and 39 CFR 3010.40(a) are applicable to the Agreement and require the Commission to make a finding that the proposed market dominant negotiated service agreement must either (1) improve the net financial position of the Postal Service

(39 U.S.C. 3622(c)(10)(A)(i)); or (2) enhance the performance of various operational functions (39 U.S.C. 3622(c)(10)(A)(ii)). Additionally, the negotiated service agreement may not “cause unreasonable harm to the marketplace” (39 U.S.C. 3622(c)(10)(B)) and “must be available on public and reasonable terms to similarly situated mailers.” 39 CFR 3010.40(c).

Financial analysis. The Postal Service states that the negotiated rates in the bilateral agreement represent an improvement over the default rates set by the UPU. Notice at 1. Based upon the financial model, the Postal Service further states that the Agreement will improve the net financial position of the Postal Service and therefore complies with section 3622(c)(10). *Id.* at 4, Attachment 2.⁷ As observed by the Public Representative, the financial model demonstrates that the Agreement’s unit revenue from projected volumes should exceed its estimated unit attributable costs. PR Comments at 4.

The Postal Service states that the Agreement will not result in unreasonable harm to the marketplace. Notice at 5. It contends that because the Postal Service and Singapore Post are the designated postal operators for their respective countries, there are limited alternatives for receiving inbound single-piece Letter Post. The Postal Service states that it is unaware of any private entity that would be able to provide comparable Letter Post services on the terms and scale as proposed in the Agreement. Thus, the Postal Service argues that the Agreement will not cause competitive harm. *Id.* No party contends otherwise.

The Commission agrees. There is no indication that the Agreement will cause unreasonable harm in the marketplace.

Functional equivalency. The Postal Service asserts that the Singapore Post Agreement is functionally equivalent to the existing CPG Agreement, HongKong Post Agreement and the China Post 2011 Agreement. *Id.* at 8. To that end, it identifies

⁷ The Postal Service also cites performance improvements consisting of delivery confirmation service for letter-class small packets, labeling software and barcoding and sortations for routing to the Postal Service’s International Service Centers. *Id.* at 4-5.

various similarities among the agreements, e.g., each involves rates for Letter Post tendered by a foreign postal operator, includes a delivery scanning service with Letter Post small packets and similar cost characteristics. *Id.* In addition, using the China Post 2011 Agreement for comparison purposes, the Postal Service identifies various differences between the two agreements, including different postal operators, term, purpose of the agreement, absence of a separate accord for business accounting rules, effective date, single service, dispute resolution, confidentiality terms related updates, and other changes. *Id.* at 9-11.

The instant Agreement appears to be similar to the agreements filed in Docket Nos. R2010-6, R2011-4 and R2011-7, although they differ in certain respects relative to single rates versus multiple rates, term, effective date and other changes as described above. These differences notwithstanding, the Commission concludes that the instant Agreement may be included in the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product.

Request to exclude the proposed product from service performance measurement reporting. The Postal Service requests an exception from the requirement to report service performance for the instant Agreement similar to the precursor agreements in Docket Nos. R2010-5, R2010-6, R2011-4 and R2011-7 filed under the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product. *Id.* at 6-7. The Postal Service states that it will report information on this Agreement in the Annual Compliance Report. Negotiated service agreements with substantially all components of the Agreement included in the measurement of other products may be granted an exception from reporting pursuant to 39 CFR 3055(a)(3). The exception is granted.

Other issues. The Singapore Post Agreement does not have a specific effective date. The Agreement provides that its term is one year and upon expiration of the term the parties will determine if they wish to extend the Agreement for the next calendar year or modify its provisions. The Postal Service shall promptly notify the Commission of the effective and termination dates. If the Singapore Post Agreement terminates

early, the Postal Service shall notify the Commission within 30 days of the termination date.

Conclusion. The Commission finds that the Singapore Post Agreement falls within the parameters of the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product.

V. ORDERING PARAGRAPHS

It is ordered:

1. The Singapore Post Agreement filed in this docket is included within the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 (MC2010-35, R2010-5 and R2010-6) product.
2. The Postal Service shall notify the Commission of the effective and termination dates of the Singapore Post Agreement and, as set forth in the body of this Order, if the Agreement terminates early.
3. Within 30 days of expiration, or upon early termination of the Singapore Post Agreement, the Postal Service shall file cost, volume, and revenue data associated with the agreement.
4. The Postal Service request that the Singapore Post Agreement be excepted from separate reporting under 39 CFR 3055.3(a)(3) is granted.

By the Commission.

Ruth Ann Abrams
Acting Secretary